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EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/935,085	Applicant(s) ABUAN ET AL.	
	Examiner Arthur Duran	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 28-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 28-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-3 and 28-51 have been examined.

Response to Amendment

2. The Amendment filed on 8/21/2006 is insufficient to overcome the prior rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 and 28-51 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The independent claims describe a ‘conferencing link’. However, the word ‘conference’ nor any of its derivatives occur in the Applicant’s Specification. Hence, there is no support for a conferencing link.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 28-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dialpad.com (Dialpad.com screenshots from 8/17/2000 and prior obtained via [www.archive.org/The Wayback Machine](http://www.archive.org/The_Wayback_Machine)) in view of Landsmann (6,314,451).

Claim 1, 36, 37, 44, 49, 50: Dialpad.com discloses a method of providing dynamically updated audio data comprising:

downloading at least one multimedia file including audio advertisement data;

downloading configuration instructions for controlling broadcast of at least one audio advertisement based at least in part on a status of a conferencing link over a network; and

broadcasting said audio advertisement data in accordance with said configuration instructions (see Dialpad.com screenshots enclosed).

Also, note that the Dialpad.com press release from 1/12/2000 states that a variety of multimedia files can be utilized including audio data. Also, note that these files can be rotated before, during or after the telephone calls. Also, note that 'audio ad bumpers' can be played on the front and/or back end of calls. Also, note that the Java applet is downloaded to the users computer from a website.

Dialpad.com does not explicitly disclose that or when advertisement data is download to the user computer. However, Dialpad.com discloses that advertisement data is presented to the user before, during, or after the telephone call made by the user. Hence, it would be obvious to one skilled in the art that advertisement data/info can be downloaded to the user before, during, or after the telephone call made by the user or at anytime the user accesses the dialpad.com

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website. One would be motivated to do this in order to have the advertisement ready to present without delay. Also, note that Landsmann further discloses motivation for download advertisements such that they are ready for display (Abstract; col 3, line 52-col 4, line 27).

Additionally, Applicant's Specification does disclose a communications link and the status of a communication session:

"[0016] In another aspect of the invention, a method is provided for advertising to users of a communications system, which provides communications between a caller and destination audio receiver. The method includes accessing a web page using a browser; retrieving audio advertisement processing information; and downloading a front audio ad module and a bumper audio ad module. The front audio advertisement is played as the caller establishes a communication link. The bumper audio advertisement is played after the caller terminates the communication link.

[0063] In action 508, audio advertising module 23 causes a first audio to be played to the caller from the included audio ad files provided. After the hard coded ad has played, the caller's communication with the destination audio communications device 18 (action 510) commences. In action 512, audio advertising module 23 periodically checks the status of the communication session to realize if the communication session is continuing or has terminated. If the call has not terminated, no action is taken. If the caller has terminated the communication session, audio advertising module 23 causes a second hard coded audio ad to be played for the caller (action 514). The caller is then directed back to applet 24 to either place another call or to terminate the communication session."

Applicant's Specification (cited preceding) and Applicant's Figures indicate that advertisements can be presented before or after the calls.

And, the Dialpad.com and Rejection above disclose that advertisements can be presented before, during, or after the calls. Hence, the advertisements are presented based on the status of the communications link/session. That is, the advertisements are sent before or during or after communications have been made.

Hence, Dialpad.com discloses these features.

And, Dialpad.com discloses a local Java applet downloaded to the user device that displays or plays the advertisements to the user. And, since the local Java applet displays the dialpad, associated advertising, and audio advertising, it is obvious that the local Java applet can receive or has the necessary instructions for displaying the associated advertising or playing the audio advertising. Hence, the instructions for displaying the advertising/audio advertising through the local Java applet can be downloaded when the Java applet is downloaded or can be downloaded along with the advertising content. Either way, the Java applet receives instructions for the advertisements/audio advertisements that are displayed through the local Java applet.

Also, Landsman was added to Dialpad.com for Landsman's more explicit disclosure concerning downloading of information. There is nothing in Dialpad.com or Landsman that would prevent the combination from downloading information.

Additionally, Landsman discloses that advertisements are downloaded to the user device and also that instructions for displaying the advertisements can be downloaded to the user device (Landsman, Figures 5, 6a, 6b; and below citations):

“(72) Advantageously, the AdController applet can readily function in a wide variety of environments, without changes to the coding of the applet itself.

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This is accomplished through downloading of an external configuration file (specifically file 620 shown in FIGS. 6A and 6B, which will be discussed below), as part of the applet files, from agent server 15. Suitably changing parameter values in the configuration file permits the behavior of applet 424 to be readily changed to suit a desired environment without a need to utilize a different version of that applet for each different environment, otherwise requiring different software classes and with attendant modifications and re-compilation.

(73) Execution of AdController applet 424 begins by Transition Sensor applet 422 calling a standard init Applet method, which downloads the external configuration file, followed by extracting and saving its configuration parameters. These parameters are supplied, as symbolized by line 515, to the AdController applet, during its execution in order to define its behavior given its current execution environment (col 27, lines 9-27);

[Claim] 1. Apparatus for use in rendering an information object, comprising a web advertisement, through an executing web browser and in response to a first web page provided to the browser, the apparatus comprising:

a processor;

a memory connected to the processor and storing both computer executable instructions and the first web page, the first web page having a plurality of computer readable instructions representing page content and code, the code comprising an advertising tag; and

an output device responsive to the processor;

wherein the processor, in response to the executable instructions and the code:

dynamically writes a plurality of predefined applet tags, that collectively implement a script, into the first web page;

downloads in response to subsequent execution of the script, an agent from a corresponding network server into the memory; and

thereafter instantiates and executes the agent under web browser, the agent having an applet, wherein the applet:

issues a request, via a network connection, to a specified network server to download a manifest file for the information object from the specified network server, wherein the manifest file comprises a manifest of names of a plurality

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of predefined informational files that collectively comprise part of the information object, a network address at which each of the informational files can be accessed and associated configuration information necessary to properly render the information object;

accesses and downloads, to the memory, each informational file, specified in the manifest file, from its corresponding network address, to the extent said each informational file does not then reside within the memory; and

in response to an occurrence of a user-initiated event, as detected by the agent through monitoring a user click-stream, which initiates a transition from the first web page to a second web page and which signifies a start of an interstitial interval:

ceases any further download of the manifest file or any informational file specified in the manifest file, to the extent any downloading of said manifest file or said any informational file is then occurring; and

initiates processing, through the browser, of informational files for a previously downloaded information object so as to render the previously downloaded object during an interstitial interval to the user”.

Claims 2, 38, 45: Dialpad.com discloses the method of claim 1 further comprising:

downloading additional audio advertisement data; and

broadcasting said additional audio advertisement data in accordance with said audio configuration instructions (see Dialpad.com screenshots).

Claims 3, 33, 39, 46: Dialpad.com discloses the method of claim 2, further comprising:

interrupting said downloading of said additional audio data;

establishing the conferencing link; and

thereafter resuming said downloading of said additional audio data (see Dialpad.com

screenshots and the rejection of claim 1 above). Dialpad.com does not explicitly disclose

interrupting the downloading of advertisements. However, Examiner notes that it is old and well known that initiating a command in a website can cancel priorly initiated actions or downloading

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activity on a website. As an example of this, Landsman discloses interrupting the downloading of advertising data when a user initiates a particular command for content or action of interest to the user (col 10, line 30-col 11, line 35). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Landsman's interrupting advertising downloading to Dialpad.com's downloading advertising and initiating user commands. One would have been motivated to do this in order to promptly attend to user actions of interest.

Claim 28, 40, 47: Dialpad.com discloses the method of Claim 1, wherein the status of the conferencing link is controlled using a browser interface to a conferencing website (see Dialpad.com screenshots).

Claim 29: Dialpad.com discloses the method of Claim 1, wherein the status of the conferencing link comprises one of the following; initiated, active, and terminated (see Jan 12, 2000 news release screenshot).

Claim 30, 41: Dialpad.com discloses the method of Claim 1, wherein the configuration instructions cause the broadcasting of said audio advertisement data to occur at one of the following:

before the conferencing link is active and after the conferencing link is active (Dialpad.com screen shots; Dialpad.com Press Release from January 12, 2000).

Claim 31, 42: Dialpad.com discloses the method of Claim 2, further comprising modifying the audio advertisement data based at least in part on the additional audio advertisement data (see advertisers screenshot, Customized Opportunities;).

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Claim 32, 48: Dialpad.com discloses the method of Claim 1, wherein the configuration instructions include at least one of the following:

an identifier of the audio advertisement data, a storage location of the audio advertisement data, a sequence in which the audio advertisement data is to be broadcast, a frequency at which the audio advertisement data is to be broadcast, a combination of portions of the audio advertisement data to be broadcast, an association of the audio advertisement data with graphical advertisement data, a number of times the audio advertisement data is to be broadcast and a period between broadcasting one portion of the audio advertisement data and another portion of the audio advertisement data (see Dialpad.com Press Release from January 12, 2000).

Also, Dialpad.com discloses the features of an association of the audio advertisement data with graphical advertisement data (Dialpad.com Press Release from January 12, 2000). It would be obvious to one skilled in the art that Dialpad.com can combine the disclosed multimedia, graphic, banner, audio advertisements. One would be motivated to do this in order to present an advertisement of interest to the user.

Claim 34: Dialpad.com discloses the method of Claim 1, wherein the audio advertisement data is based at least in part on profile data associated with a user of the conferencing link (see company screenshot; see help screenshot; "What is your privacy policy?").

Claim 35: Dialpad.com discloses the method of Claim 1, wherein the conferencing link comprises a voice over internet protocol link (see technology screenshot).

Claim 43: In regards to the device being a mobile device, MPEP Section 2144.04.V.A states that making a device portable or movable is an obvious variation.

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Claim 51: Dialpad.com discloses that the conferencing link includes a telephone link (see Dialpad.com screenshots).

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are not found persuasive.

In Applicant's Remarks dated 8/21/2006, Applicant has presented arguments concerning a 'conferencing link'. However, the word conference nor any of its derivatives occurs in the Applicant's Specification.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Applicant's Specification does disclose a communications link and the status of a communication session:

"[0016] In another aspect of the invention, a method is provided for advertising to users of a communications system, which provides communications between a caller and destination audio receiver. The method includes accessing a web page using a browser; retrieving audio advertisement processing information; and downloading a front audio ad module and a bumper audio ad module. The front audio advertisement is played as the caller establishes a communication link. The bumper audio advertisement is played after the caller terminates the communication link.

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[0063] In action 508, audio advertising module 23 causes a first audio to be played to the caller from the included audio ad files provided. After the hard coded ad has played, the caller's communication with the destination audio communications device 18 (action 510) commences. In action 512, audio advertising module 23 periodically checks the status of the communication session to realize if the communication session is continuing or has terminated. If the call has not terminated, no action is taken. If the caller has terminated the communication session, audio advertising module 23 causes a second hard coded audio ad to be played for the caller (action 514). The caller is then directed back to applet 24 to either place another call or to terminate the communication session."

Applicant's Specification (cited preceding) and Applicant's Figures indicate that advertisements can be presented before or after the calls.

And, the Dialpad.com and Rejection above disclose that advertisements can be presented before, during, or after the calls. Hence, the advertisements are presented based on the status of the communications link/session. That is, the advertisements are sent before or during or after communications have been made.

Hence, Dialpad.com discloses these features.

The following is in regards to Applicant's Remarks/Arguments that the Rejection does not disclose that the configuration instructions can be downloaded and that the downloaded configuration instructions can control the advertisement presentation.

Examiner notes that it must be presumed that the artisan knows something about the art apart from what the references disclose. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The problem cannot be approached on the basis that artisans would only know what they read in references; such artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby. Also, the conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art

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without any specific hint of suggestion a particular reference. In re Bozek, 416 F.2d 1385, USPQ 545 (CCPA 1969). And, every reference relies to some extent on knowledge or persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F.2d 656, USPQ 12 (CCPA 1977).

Also, Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Hence, Dialpad.com discloses a local Java applet downloaded to the user device that displays or plays the advertisements to the user. And, since the local Java applet displays the dialpad, associated advertising, and audio advertising, it is obvious that the local Java applet can receive or has the necessary instructions for displaying the associated advertising or playing the audio advertising. Hence, the instructions for displaying the advertising/audio advertising through the local Java applet can be downloaded when the Java applet is downloaded or can be downloaded along with the advertising content. Either way, the Java applet receives instructions for the advertisements/audio advertisements that are displayed through the local Java applet.

And, in regards to Applicant's comments that Landsman teaches away, Examiner notes that teaching of a preference or several different options does not constitute a teaching away from the proposed combination under review. See *In re Fulton*, 391 F.3d 1195, 1199-1200, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). Landsman was added to Dialpad.com for Landsman's

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more explicit disclosure concerning downloading of information. There is nothing in Dialpad.com or Landsman that would prevent the combination from downloading information.

Additionally, Landsman discloses that advertisements are downloaded to the user device and also that instructions for displaying the advertisements can be downloaded to the user device (Landsman, Figures 5, 6a, 6b; and below citations):

“(72) Advantageously, the AdController applet can readily function in a wide variety of environments, without changes to the coding of the applet itself. This is accomplished through downloading of an external configuration file (specifically file 620 shown in FIGS. 6A and 6B, which will be discussed below), as part of the applet files, from agent server 15. Suitably changing parameter values in the configuration file permits the behavior of applet 424 to be readily changed to suit a desired environment without a need to utilize a different version of that applet for each different environment, otherwise requiring different software classes and with attendant modifications and re-compilation.

(73) Execution of AdController applet 424 begins by Transition Sensor applet 422 calling a standard init Applet method, which downloads the external configuration file, followed by extracting and saving its configuration parameters. These parameters are supplied, as symbolized by line 515, to the AdController applet, during its execution in order to define its behavior given its current execution environment (col 27, lines 9-27);

[Claim] 1. Apparatus for use in rendering an information object, comprising a web advertisement, through an executing web browser and in response to a first web page provided to the browser, the apparatus comprising:

a processor;

a memory connected to the processor and storing both computer executable instructions and the first web page, the first web page having a plurality of computer readable instructions representing page content and code, the code comprising an advertising tag; and

an output device responsive to the processor;

wherein the processor, in response to the executable instructions and the code:

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dynamically writes a plurality of predefined applet tags, that collectively implement a script, into the first web page;

downloads in response to subsequent execution of the script, an agent from a corresponding network server into the memory; and

thereafter instantiates and executes the agent under web browser, the agent having an applet, wherein the applet:

issues a request, via a network connection, to a specified network server to download a manifest file for the information object from the specified network server, wherein the manifest file comprises a manifest of names of a plurality of predefined informational files that collectively comprise part of the information object, a network address at which each of the informational files can be accessed and associated configuration information necessary to properly render the information object;

accesses and downloads, to the memory, each informational file, specified in the manifest file, from its corresponding network address, to the extent said each informational file does not then reside within the memory; and

in response to an occurrence of a user-initiated event, as detected by the agent through monitoring a user click-stream, which initiates a transition from the first web page to a second web page and which signifies a start of an interstitial interval:

ceases any further download of the manifest file or any informational file specified in the manifest file, to the extent any downloading of said manifest file or said any informational file is then occurring; and

initiates processing, through the browser, of informational files for a previously downloaded information object so as to render the previously downloaded object during an interstitial interval to the user”.

Hence, the combination of the prior art renders obvious downloading instructions for display of an advertisement based in part on the status of a conferencing/communications link/call.

Hence, the prior art renders obvious the features of the Applicant's claims.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a) Business 2.0, July 11, 2000, 'Got Fiber?'
- b) Internet Telephony Product Reviews, July 2000, Dialpad.com
- c) Dialing From Your Desktop May 25, 2000, PC Magazine; PC Magazine picks Dialpad.com as Editor's Choice (June 6, 2000)

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran
Primary Examiner
9/7/2006